

# ORDER DENYING DEFENDANTS' EX PARTE APPLICATION TO APPEAR TELEPHONICALLY AT THE EARLY NEUTRAL EVALUATION CONFERENCE

[Doc. No. 5]

Defendants.

Before the Court in the above-captioned matter is Defendants’ ex parte application to appear telephonically at the Early Neutral Evaluation (“ENE”) on February 12, 2009. Defendants cite the burden Ms. Laura McCaan will incur if she is made to travel from Colorado to San Diego for the ENE. Specifically, Defendants argue that Ms. McCaan oversees approximately 3,500 active litigation matters and is too busy to make a personal appearance. (*Defendants’ Ex parte Application*, Doc. No. 5, p. 2, ¶ 1-2.) Defendants argue that permitting Ms. McCaan’s telephonic appearance will not negatively impact her preparation and ability to meaningfully participate in the conference. (*Id.*, at 2.) The Court notes that Defendants do not express that Ms. McCaan has any particular scheduling conflict, but merely mention her out-of-state office as the basis for the hardship.


The Court disagrees with Defendants. Local Civil Rule 16.1.c.1.c. provides that a party's

1 appearance at an ENE will not be excused absent good cause shown. Although the Court acknowledges  
2 the time and expenses that the parties will incur to travel to appear in person at the ENE, pursuant to this  
3 Court's own order setting the ENE, "[i]n and of itself, having to travel a long distance to appear in  
4 person is not "extraordinary." (*January 5, 2009 Order*, p. 3 at ¶¶ 19-20.) The Court does not find  
5 good cause to excuse Ms. McCaan's personal appearance at the ENE.

6 Accordingly, the Court **DENIES** Plaintiff's *Ex Parte* Application [Doc. No. 5].

7 **IT IS SO ORDERED.**

8 Dated: January 20, 2009

9   
10 Hon. Nita L. Stormes  
11 U.S. Magistrate Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28